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Bobbie Garcia

California Integrated Waste Management Board

Permitting and Enforcement Division

P.O. Box 4025 MS-16

Sacramento, CA 95812-4025

RE: Comments on Proposed Permit Implementation (AB 1497) Regulations

Dear Ms. Garcia:

The Solid Waste Association of North America (SWANA) is composed of approximately 7000 public and private sector solid waste management professionals throughout North America dedicated to the development and enhancement of environmentally and economically sound practices and policies for the integrated management of municipal solid waste. There are approximately 900 members of SWANA in California, and on their behalf I am writing to provide comments on the proposed Permit Implementation Regulations.

SWANA appreciates this opportunity to provide the California Integrated Waste Management Board (CIWMB) with comments on the proposed Permit Implementation Regulations. Several SWANA members participated in the AB 1497 work groups and found the interactions between CIWMB staff, Local Enforcement Agencies, other local agency staff, and public and private operators beneficial.

Major comments on the proposed Permit Implementation Regulations include:

- Enforcement agencies should have discretion regarding the level of change rather than relying only on a list that can not include all possible situations. This discretion should apply to both minor changes and significant changes.
- A Modified Solid Waste Facilities Permit process should also allow for nonmaterial changes that are physical changes as long as it does not significantly alter the approved design or operation of the facility

Section 21665 CIWMB – Processing Proposed Changes at Solid Waste Facility

Enforcement agency discretion is necessary since regulations cannot consider every possible situation for all facilities. Flexibility will allow sufficient ability to cover the range of circumstances. The proposed decision tree provides that assurance.

The proposed Minor Change lists in Alternative 1 and Alternative 2 can serve as examples of the types of issues that require minimal approval. These changes do not materially affect the design or operation of the facility. In addition, changes outside the control of the operator should be considered minor changes.

Alternative 3 Significant Change List should be removed and the Enforcement Agencies base the determination of whether a change is significant upon the criteria used in the definition that a Significant Change. That definition states that a Significant Change if the change of such consequence that the solid waste facilities permit needs to include further restrictions, prohibitions, mitigations, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment.

Section 21665 (d) Modified Solid Waste Facilities Permit

A Modified Solid Waste Facilities Permit process should also allow for nonmaterial changes that are physical changes as long as it does not significantly alter the approved design or operation of the facility. Any physical change should not automatically result in a permit require a full revision. Many of the items mentioned in the Minor Change List include physical changes such as replacing equipment. As long as the physical change does not require additional restrictions and complies with State minimum standards and the solid waste permit, it should be allowed as a "Nonmaterial change".

The definition should be changed to:

(5) "Nonmaterial change" means a change that would require a change to the solid waste facilities permit but would not result in any substantial physical change that would materially alter the approved design or operation of the facility.

Section 21660.2 Informational Meeting for New and Revised Solid Waste Facilities Permit Applications.

Under certain situations, operators should be allowed to waive the time limit when the informational meeting must be conducted. One example of this need would be to allow the applicant to combine this required hearing with the required CEQA scoping meeting.

Minor comments on the proposed Permit Implementation Regulations include:

- The term "reasonable time," as referred to in Section 21620 (a)(1)(E) should be defined. Our recommendation is that the definition includes a period of not less than 30 calendar days.
- In line with one of the purposes of AB 1497 (Montanez), which is to expand citizen involvement in the Solid Waste Facility permit process, SWANA is agreeable to having the Executive Director of the CIWMB be involved with the modified permit decision process. SWANA, however, would like to recommend that the decision by the Executive Director be one that can be appealed to the CIWMB.

Thank you for the opportunity to provide these comments for your further consideration. Please do not hesitate to contact me if you have any questions or require further information about our concerns.

Sincerely,

Yvette Gómez Agredano
Legislative Advocate
SWANA, California Chapters

cc: CIWMB Board Members
R. Scott Johnston, Chair, SWANA California Legislative Task Force
Mark Urquhart, Secretary, SWANA California Legislative Task Force